



Patrick Vogelsberg, JD  
Vice President of Governmental Affairs  
Kansas Association of REALTORS®  
3644 SW Burlingame Rd.  
Topeka, KS 66611  
(785)845-0988 (Cell)  
Email: patrick@kansasrealtor.com

To: House Taxation Committee  
Date: February 12, 2018  
Subject: Opposition to HB 2367

Honorable Chairman Johnson and members of the House Taxation Committee:

On behalf of the Kansas Association of REALTORS® (KAR), thank you for the opportunity to provide written comments in opposition to HB 2367, which would repeal property tax reforms passed in 2016 that were intended to increase the fairness and predictability of the property tax appeals and valuation process for property taxpayers.

KAR represents over 9,500 members involved in both residential and commercial real estate and has advocated on behalf of the state's property owners for over 95 years. REALTORS® serve an important role in the state's economy and are dedicated to working with our elected officials to create better communities by supporting economic development, a high quality of life and providing affordable housing opportunities while protecting the rights of private property owners.

In 2016, the Kansas Legislature passed SB 280 which sought to bring fairness and accountability to the valuation and appeals process. The conference committee report containing the contents of House Substitute for SB 280 passed the House 120-0 and the Senate 39-1. When the Governor vetoed the legislation over a matter unrelated to HB 2367, the Legislature responded by overriding the veto 120-0 in the House and 39-1 in the Senate on Sine Die. HB 2367 repeals significant provisions that were passed in 2016 H. Sub. for SB 280 that provide property taxpayers with certain protections.

First, HB 2367 allows county appraisers to (1) force property owners or financial institutions to turn over appraisals conducted for mortgage financing; (2) to use any fee appraisal that took place more than 12 months prior to the beginning of the valuation year; and (3) to turn over individual lease documents.

Prior to 2016, it was common practice for counties to subpoena and obtain an appraisal conducted on a property during the process of obtaining mortgage financing to use against the property owner in a dispute over the property's valuation for property tax purposes.

Appraisals conducted on a property to obtain mortgage financing are drastically different than appraisals conducted on a property for the purpose of ad valorem tax valuations. The mortgage financing appraisal establishes a valuation of the property at its fully developed and highest operating capability while the ad valorem appraisal establishes a valuation of the property at its current status.

Once the mortgage financing appraisal is in the possession of the county appraiser, this information may be subject to the Kansas Open Records Act and cannot be protected from falling into the hands of competitors and members of the public. As a result, this proposal would prohibit counties from forcing property owners or financial institutions to turn over appraisals conducted for mortgage financing during the property tax valuation and appeals process.

In addition, prior to 2016, it was common practice for counties to subpoena and obtain appraisals conducted on properties by private appraisers to use against the property owner in property valuation disputes. In many cases, the appraisals obtained through the subpoena process are older appraisals that were obtained in previous valuation disputes.

Appraisals that were conducted on a property more than 12 months prior to a given date typically contain stale information that may not accurately reflect current real estate market conditions or property characteristics. As a result, older appraisals should not be allowed to be used as evidence in a property tax valuation dispute.

HB 2367 would also allow county appraisers to force property owners to turn over individual lease documents in a property tax valuation dispute. Again, prior to 2016, during the property tax appeals process, counties routinely sent interrogatories asking for copies of confidential information on the property, such as individual lease agreements between the property owner and tenants.

Revealing the confidential information contained in individual lease agreements can be an undue burden on property owners and exposes this confidential information to public disclosure under an open records request. In the alternative, the property owner should be allowed to respond to an interrogatory request with a certified rent roll, which would include tenant names, tenant spaces, square footages of the tenancies, lease rates and lease term dates. The certified rent roll is sufficient to provide the necessary information to the county without breaking the confidences between the property owner and tenants that would result from the disclosure of the individual lease agreements.

Second, the amendments on pages 2-3 repeal taxpayer protections that prevent abuse following a successful appeal of a property valuation to the BOT. Current law requires county appraisers to value the property using an independent appraisal prepared by a certified or licensed real estate appraiser. This ensures that an impartial and unbiased party determines the valuation of the property using an individual appraisal of the property and not the computer assisted mass appraisal system that was initially used to produce the previous inaccurate valuation of the property.

To close, thank you for the opportunity to provide the committee with written comments regarding the proposals set out in HB 2367. KAR would respectfully request that the House Taxation Committee reject the provisions contained in HB 2367. I am happy to stand for questions at the appropriate time.

Respectfully submitted,

*Patrick Vogelsberg*

Patrick Vogelsberg, JD  
Vice President of Governmental Affairs  
Kansas Association of REALTORS®